

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN THE MATTER OF DISCLOSURE OF
GRAND JURY MATERIALS OF
INVESTIGATION NUMBER
2010R0R02278

CR 13-90592 MISC
ORDER DENYING
APPLICATION TO
SEAL

The United States of America submits an ex parte application for the disclosure of grand jury records under Rule 6(e)(6) of the Federal Rules of Criminal Procedure and seeks an order sealing the application. Even the application to seal is designated as purportedly under seal.

Rule 6(e)(6) states, "Records, orders, and subpoenas relating to grand-jury proceedings must be kept under seal to the extent and as long as necessary to prevent the unauthorized disclosure of a matter occurring before a grand jury." Fed. R. Crim. P. 6. Here, neither the application to seal nor the ex parte application for disclosure that the government seeks to seal has revealed anything "relating to the grand jury proceedings." The ex parte application is simply a request for the disclosure of grand jury records and it does not disclose matters occurring before the grand jury. Thus, the Court DENIES the application to seal.

Furthermore, a petition to disclose a grand jury matter under Rule 6(e)(3)(E)(i) may be filed ex parte by the government when it makes a specific showing of a need to obtain the disclosure ex parte. United States v. Nix, 21 F.3d 347, 351 (9th Cir. 1994).

1 Here, the government fails to make such a showing. Thus, the
2 Court will not entertain the government's application ex parte.

3 The government's request will be neither filed nor considered
4 as submitted. If the government wishes to pursue this request it
5 must first file in the public record an application to seal its
6 application for disclosure, or explain why even the application to
7 seal must be sealed. It must also include in its application for
8 disclosure good cause for filing it ex parte.

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10 IT IS SO ORDERED.

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12 Dated: 7/23/2013

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CLAUDIA WILKEN
United States District Judge